

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:18-cv-09363-AJN**

NAACP Legal Defense & Educational Fund, Inc. v. U.S.
Department Of Justice
Assigned to: Judge Alison J. Nathan
Cause: 05:552 Freedom of Information Act

Date Filed: 10/12/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**NAACP Legal Defense & Educational
Fund, Inc.**

represented by **Aaron Ross Sussman**
Naacp Legal Defense & Educational Fund,
Inc.
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ATTORNEY TO BE NOTICED

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TERMINATED: 10/24/2019

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V.

Defendant

U.S. Department Of Justice

represented by

Rebecca Kopplin
 DOJ–Civ
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 202–514–3953
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/12/2018	<u>1</u>	COMPLAINT against U.S. Department Of Justice. (Filing Fee \$ 400.00.)Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Attachments: # <u>1</u> Exhibit A – Apr. 11, 2018 Request, # <u>2</u> Exhibit B – Apr. 25, 2018 Letter, # <u>3</u> Exhibit C – Apr. 30, 2018 Letter, # <u>4</u> Exhibit D – May 31, 2018 Letter, # <u>5</u> Exhibit E – July 13, 2018 Email, # <u>6</u> Exhibit F – July 16, 2018 Email, # <u>7</u> Exhibit G – August 28, 2018 Letter, # <u>8</u> Exhibit H – Sept. 17, 2018 Email, # <u>9</u> Exhibit I – Sept. 27, 2018 Letter)(Aden, Leah) (Entered: 10/12/2018)
10/12/2018	<u>2</u>	CIVIL COVER SHEET filed. (Aden, Leah) (Entered: 10/12/2018)
10/12/2018	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Department of Justice, re: <u>1</u> Complaint,, Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Aden, Leah) (Entered: 10/12/2018)
10/12/2018	<u>4</u>	NOTICE OF APPEARANCE by Leah Camille Aden on behalf of NAACP Legal Defense & Educational Fund, Inc.. (Aden, Leah) (Entered: 10/12/2018)
10/12/2018	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by NAACP Legal Defense & Educational Fund, Inc..(Aden, Leah) (Entered: 10/12/2018)
10/15/2018		Civil Case Opening Fee Payment: for <u>1</u> Complaint,, Filing fee \$ 400.00.(Aden, Leah) (Entered: 10/15/2018)
10/15/2018		***NOTICE TO ATTORNEY TO PAY THE FILING FEE. Notice to Attorney Leah Camille Aden. Civil Case Opening Fee of \$400 Due: for <u>1</u> Complaint,, The filing fee due was not paid; either in whole or in part. If the filing fee is not paid within five (5) days, per Amended Standing Order 15–mc–131, this case will be administratively closed. Filing Fee due by 10/22/2018. (jgo) (Entered: 10/15/2018)
10/15/2018		Civil Case Opening Fee Payment: for <u>1</u> Complaint,, Filing fee \$ 400.00, receipt number ANYSDC–15748003.(Aden, Leah) (Entered: 10/15/2018)
10/16/2018		***NOTICE TO ATTORNEY REGARDING CIVIL CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Leah Camille Aden. The following case opening statistical information was erroneously selected/entered: Fee Date 10/12/2018;. The following correction(s) have been made to your case entry: the Fee Date has been modified to 10/15/2018;. (jgo) (Entered: 10/16/2018)
10/16/2018		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Alison J. Nathan. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (jgo) (Entered: 10/16/2018)
10/16/2018		Magistrate Judge Henry B. Pitman is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (jgo) (Entered: 10/16/2018)
10/16/2018		Case Designated ECF. (jgo) (Entered: 10/16/2018)

10/16/2018	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to U.S. Department Of Justice. (jgo) (Entered: 10/16/2018)
10/17/2018	<u>7</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint,, served. U.S. Department Of Justice served on 10/17/2018, answer due 11/16/2018. Service was accepted by Haojun Li, Clerk, U.S. Attorney for Southern District of New York. Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Aden, Leah) (Entered: 10/17/2018)
10/18/2018	<u>8</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint,, served. Service was accepted by Brian Cress, Mail Clerk and Authorized Agent of the U.S. Department of Justice. Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Aden, Leah) (Entered: 10/18/2018)
10/25/2018	<u>9</u>	NOTICE OF APPEARANCE by Aaron Ross Sussman on behalf of NAACP Legal Defense & Educational Fund, Inc.. (Sussman, Aaron) (Entered: 10/25/2018)
10/26/2018	<u>10</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Parties ordered to submit via ECF proposed case management plan and joint letter seven days before conference. (Initial Conference set for 2/8/2019 at 03:15 PM in Courtroom 906, 40 Centre Street, New York, NY 10007 before Judge Alison J. Nathan.) (Signed by Judge Alison J. Nathan on 10/26/2018) (jca) Modified on 10/26/2018 (jca). (Entered: 10/26/2018)
11/09/2018	<u>11</u>	MOTION for Cerissa Irene Cafasso to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-15891145. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Attachments: # <u>1</u> Affidavit in Support of Motion to Appear Pro Has Vice, # <u>2</u> Certificates of Good Standing, # <u>3</u> Text of Proposed Order)(Cafasso, Cerissa) (Entered: 11/09/2018)
11/09/2018		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>11</u> MOTION for Cerissa Irene Cafasso to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-15891145. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 11/09/2018)
11/14/2018	<u>12</u>	ORDER granting <u>11</u> Motion for Cerissa Irene Cafasso to Appear Pro Hac Vice (HEREBY ORDERED by Judge Alison J. Nathan)(Text Only Order) (Nathan, Alison) (Entered: 11/14/2018)
11/15/2018	<u>13</u>	NOTICE OF APPEARANCE by Rebecca Kopplin on behalf of U.S. Department Of Justice. (Kopplin, Rebecca) (Entered: 11/15/2018)
11/16/2018	<u>14</u>	ANSWER to <u>1</u> Complaint,, Document filed by U.S. Department Of Justice.(Kopplin, Rebecca) (Entered: 11/16/2018)
12/07/2018	<u>15</u>	NOTICE OF APPEARANCE by John Zachery Morris on behalf of NAACP Legal Defense & Educational Fund, Inc.. (Morris, John) (Entered: 12/07/2018)
01/24/2019	<u>16</u>	LETTER MOTION to Stay <i>in Light of Lapse in Appropriations</i> addressed to Judge Alison J. Nathan from Rebecca M. Kopplin dated January 24, 2019. Document filed by U.S. Department Of Justice.(Kopplin, Rebecca) (Entered: 01/24/2019)
01/28/2019	<u>17</u>	ORDER denying as moot <u>16</u> Letter Motion to Stay: In light of the restoration of the funding to the Department of Justice, the request to stay all deadlines and adjourn the initial pretrial conference is denied as moot. (Signed by Judge Alison J. Nathan on 1/28/2019) (jwh) (Entered: 01/28/2019)
02/01/2019	<u>18</u>	INITIAL REPORT OF PARTIES BEFORE PRETRIAL CONFERENCE. <i>Joint Letter</i> Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Civil Case Management Plan and Scheduling Order)(Kopplin, Rebecca) (Entered: 02/01/2019)
02/08/2019		Minute Entry for proceedings held before Judge Alison J. Nathan. Initial pre-trial conference held. Case management plan entered. See transcript for complete details. (Court Reporter Rose Prater) (qs) (Entered: 02/08/2019)
02/11/2019	<u>19</u>	MEMO ENDORSEMENT on re: <u>18</u> Initial Report of Parties Before Pretrial Conference filed by U.S. Department Of Justice. ENDORSEMENT: SO ORDERED. (Cross Motions due by 5/10/2019., Motions due by 4/12/2019., Responses due by

		6/7/2019, Replies due by 6/28/2019.) (Signed by Judge Alison J. Nathan on 2/8/2019) (kv) (Entered: 02/11/2019)
04/05/2019	<u>20</u>	CONSENT LETTER MOTION for Extension of Time addressed to Judge Alison J. Nathan from Rebecca M. Kopplin dated 4/5/2109. Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Proposed Revised Scheduling Order)(Kopplin, Rebecca) (Entered: 04/05/2019)
04/10/2019	<u>21</u>	REVISED SCHEDULING ORDER: Upon consideration of the Defendant's motion for an extension of the summary judgment briefing schedule, the motion is GRANTED. It is hereby ORDERED that Defendant shall file its motion for summary judgment on or before May 13, 2019; Plaintiff shall files its combined cross-motion for summary judgment and opposition on or before June 10, 2019; Defendant shall file its combined opposition and reply on or before July 8, 2019; and Plaintiff shall file its reply on or before July 29, 2019. SO ORDERED. (Signed by Judge Alison J. Nathan on 4/10/2019) (Cross Motions due by 6/10/2019., Motions due by 5/13/2019., Responses due by 7/8/2019, Replies due by 7/29/2019.) (ks) (Entered: 04/10/2019)
05/13/2019	<u>22</u>	MOTION for Summary Judgment . Document filed by U.S. Department Of Justice. Responses due by 6/10/2019(Kopplin, Rebecca) (Entered: 05/13/2019)
05/13/2019	<u>23</u>	MEMORANDUM OF LAW in Support re: <u>22</u> MOTION for Summary Judgment . . Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Kopplin, Rebecca) (Entered: 05/13/2019)
05/13/2019	<u>24</u>	DECLARATION of Tink Cooper in Support re: <u>22</u> MOTION for Summary Judgment .. Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N)(Kopplin, Rebecca) (Entered: 05/13/2019)
06/10/2019	<u>25</u>	CROSS MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment (Doc. 22)</i> . Document filed by NAACP Legal Defense & Educational Fund, Inc.. Responses due by 7/8/2019 (Attachments: # <u>1</u> Notice of Combined Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment)(Aden, Leah) (Entered: 06/10/2019)
06/10/2019	<u>26</u>	MEMORANDUM OF LAW in Support re: <u>25</u> CROSS MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment (Doc. 22)</i> . . Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Attachments: # <u>1</u> Declaration of Leah C. Aden, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Plaintiff's Statement of Material Facts, # <u>5</u> Text of Proposed Order)(Aden, Leah) (Entered: 06/10/2019)
07/08/2019	<u>27</u>	REPLY MEMORANDUM OF LAW in Support re: <u>22</u> MOTION for Summary Judgment ., <u>25</u> CROSS MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment (Doc. 22)</i> . <i>and Opposition Memorandum of Law</i> . Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Exhibit Ex 6 – Gore Deposition Transcript Extract)(Kopplin, Rebecca) (Entered: 07/08/2019)
07/08/2019	<u>28</u>	DECLARATION of Tink Cooper in Opposition re: <u>22</u> MOTION for Summary Judgment ., <u>25</u> CROSS MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment (Doc. 22)</i> .. Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Exhibit Ex L – Rule 45 Subpoena)(Kopplin, Rebecca) (Entered: 07/08/2019)
07/29/2019	<u>29</u>	REPLY MEMORANDUM OF LAW in Support re: <u>25</u> CROSS MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment (Doc. 22)</i> . . Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Aden, Leah) (Entered: 07/29/2019)
10/21/2019	<u>30</u>	LETTER addressed to Judge Alison J. Nathan from Leah C. Aden dated 10/21/2019 re: NAACP Legal Defense & Educational Fund, Inc. v. U.S. Dep't of Justice, No. 18-cv-9363 (AJN). Document filed by NAACP Legal Defense & Educational Fund, Inc..(Aden, Leah) (Entered: 10/21/2019)
10/22/2019	<u>31</u>	PROPOSED ORDER FOR WITHDRAWAL OF ATTORNEY. Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Cafasso, Cerissa) (Entered: 10/22/2019)

		10/22/2019)
10/24/2019	<u>32</u>	MEMO ENDORSEMENT on re: <u>31</u> Proposed Order for Withdrawal of Attorney filed by NAACP Legal Defense & Educational Fund, Inc.. ENDORSEMENT: SO ORDERED. Attorney Cerissa Cafasso terminated. (Signed by Judge Alison J. Nathan on 10/24/2019) (kv) (Entered: 10/24/2019)
11/12/2019		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Sarah L. Cave. Please note that this is a reassignment of the designation only. (sjo) (Entered: 11/12/2019)
12/06/2019	<u>33</u>	LETTER addressed to Judge Alison J. Nathan from Leah C. Aden dated December 4, 2019 re: NAACP Legal Defense & Educational Fund, Inc. v. U.S. Dept of Justice, No. 18-cv-9363 (AJN). Document filed by NAACP Legal Defense & Educational Fund, Inc..(Aden, Leah) (Entered: 12/06/2019)
12/13/2019	<u>34</u>	LETTER addressed to Judge Alison J. Nathan from Rebecca Kopplin dated December 13, 2019 re: Plaintiff's December 6 Letter. Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Kopplin, Rebecca) (Entered: 12/13/2019)
01/21/2020	<u>35</u>	LETTER addressed to Judge Alison J. Nathan from Austin Evers dated January 21, 2020 re: census collection database flaws. Document filed by NAACP Legal Defense & Educational Fund, Inc..(Aden, Leah) (Entered: 01/21/2020)
02/05/2020	<u>36</u>	LETTER addressed to Judge Alison J. Nathan from Rebecca Kopplin dated February 5, 2020 re: Plaintiff's January 21 Letter. Document filed by U.S. Department Of Justice. (Attachments: # <u>1</u> Exhibit A).(Kopplin, Rebecca) (Entered: 02/05/2020)
05/29/2020	<u>37</u>	OPINION & ORDER re: <u>22</u> MOTION for Summary Judgment . filed by U.S. Department Of Justice, <u>25</u> CROSS MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment (Doc. 22)</i> . filed by NAACP Legal Defense & Educational Fund, Inc.. In sum, DOJ has not carried its burden of showing that its search was adequate with respect to any subpart of LDF's FOIA request. As such, its motion for summary judgment is DENIED, and LDF's cross-motion for summary judgment is GRANTED. DOJ is hereby ORDERED to conduct an adequate search to identify documents responsive to each subpart of LDF's FOIA request. Within 21 days of the date of this Opinion and Order, the parties shall meet and confer and submit a joint letter setting out agreed-upon search terms for a search of the census collection database for records responsive to subpart (2) of LDF's request. In that letter, the parties shall also update the Court on the status of the search of the census collection database for records responsive to subparts (1), (3), (4), and (5) of LDF's request. The Clerk of Court is respectfully requested to enter judgment. This resolves Dkt. Nos. 22 and 25. SO ORDERED. (Signed by Judge Alison J. Nathan on 5/29/2020) (ks) Transmission to Orders and Judgments Clerk for processing. (Entered: 05/29/2020)
05/29/2020	<u>38</u>	CLERK'S JUDGMENT re: <u>37</u> Memorandum & Opinion. in favor of NAACP Legal Defense & Educational Fund, Inc. against U.S. Department Of Justice. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated May 29, 2020, in sum, DOJ has not carried its burden of showing that its search was adequate with respect to any subpart of LDF's FOIA request. As such, its motion for summary judgment is DENIED, and LDF's cross-motion for summary judgment is GRANTED. DOJ is hereby ORDERED to conduct an adequate search to identify documents responsive to each subpart of LDF's FOIA request. Within 21 days of the date of the Opinion and Order, the parties shall meet and confer and submit a joint letter setting out agreed-upon search terms for a search of the census collection database for records responsive to subpart (2) of LDF's request. In that letter, the parties shall also update the Court on the status of the search of the census collection database for records responsive to subparts (1), (3), (4), and (5) of LDF's request. (Signed by Clerk of Court Ruby Krajick on 05/29/2020) (Attachments: # <u>1</u> Notice of Right to Appeal) (dt) (Entered: 06/01/2020)
06/19/2020	<u>39</u>	JOINT LETTER addressed to Judge Alison J. Nathan from Rebecca M. Kopplin dated June 19, 2020 re: Parties' Conferral concerning search terms. Document filed by U.S. Department Of Justice..(Kopplin, Rebecca) (Entered: 06/19/2020)

06/25/2020	<u>40</u>	MEMO ENDORSEMENT on re: <u>39</u> Letter filed by U.S. Department Of Justice. ENDORSEMENT: By June 29, 2020, the parties shall inform the Court of their views regarding whether there is anything further for the Court to resolve in this case or whether the case can be closed. (Signed by Judge Alison J. Nathan on 6/25/2020) (jwh) (Entered: 06/25/2020)
06/26/2020	<u>41</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Emma Lewis to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–20438210. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by NAACP Legal Defense & Educational Fund, Inc.. (Attachments: # <u>1</u> Affidavit Affidavit of E. Lewis, # <u>2</u> Exhibit Exhibit A, # <u>3</u> Text of Proposed Order Proposed Order).(Lewis, Emma) Modified on 6/26/2020 (vba). (Entered: 06/26/2020)
06/26/2020		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE–FILE Document No. <u>41</u> MOTION for Emma Lewis to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–20438210. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): Affidavit is not notarized.;. Re–file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order. (vba) (Entered: 06/26/2020)
06/29/2020	<u>42</u>	JOINT LETTER addressed to Judge Alison J. Nathan from Rebecca M. Kopplin dated June 29, 2020 re: Parties' conferral regarding further disputes. Document filed by U.S. Department Of Justice..(Kopplin, Rebecca) (Entered: 06/29/2020)
06/30/2020	<u>43</u>	MEMO ENDORSEMENT on re: <u>42</u> Letter filed by U.S. Department Of Justice. ENDORSEMENT: SO ORDERED. (Signed by Judge Alison J. Nathan on 6/30/2020) (jca) (Entered: 06/30/2020)